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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR-12-00086 YGR
)	
Plaintiff,)	STIPULATION AND ORDER TO
)	CONTINUE SENTENCING HEARING
v.)	DATE TO FEBRUARY 28, 2013
)	
DAMON FISH,)	Date: January 10, 2013
)	Time: 2:00 p.m.
Defendant.)	
)	
)	
)	

The above-captioned matter is set on January 10, 2013 before this Court for a sentencing hearing. The parties jointly request that the Court continue the matter to February 28, 2013, at 2:00 p.m., before this Honorable Court so that the defense can have additional time to assess Mr. Fish's California Department of Corrections and Rehabilitation (CDCR)'s file that the Probation Office produced to the parties late last week.

On February 9, 2012, the Grand Jury charged Damon Fish as a felon in possession of a firearm, a violation of 18 U.S.C. § 922(g). On August 2, 2012, Mr. Fish pleaded guilty to the Indictment pursuant to a Federal Rule of Criminal Procedure 11(c)(1)(C) agreement with the government. Mr. Fish appeared before the Court for sentencing on December 6, 2012. The Court continued the hearing, in part, so that Mr. Fish's counsel could gather additional

1 information concerning Mr. Fish's prior criminal record, namely his CDCR file. Mr. Fish is
2 scheduled to appear for a continued sentencing hearing on January 10, 2013.

3 The parties jointly request that the Court continue the sentencing hearing date to
4 February 28, 2013. The reason for this continuance is for Mr. Fish to have additional time to
5 review his CDCR file and to have an expert review that file to determine if any of his past state
6 parole violations were constitutionally defective under *Valdivia v. Davis*, 206 F. Supp. 2d 1078
7 (E.D. Ca. 2002). Defense counsel needs additional time to assess and to review these probation
8 records, in part, because the defense did not receive them until late last week.

9 Defense counsel spoke with the Probation Officer assigned to this case, John D. Woods.
10 Mr. Woods does not oppose the continuance and is available on February 28, 2013.

11 Finally, because Mr. Fish has pleaded guilty, the parties are in agreement that the Speedy
12 Trial Act does not apply.

13 DATED: January 3, 2013

14 /S/
ANDREW HUANG
Assistant United States Attorney

16 DATED: January 3, 2013

17 /S/
ANGELA M. HANSEN
Assistant Federal Public Defender

ORDER

Based on the reasons provided in the stipulation of the parties above, the Court hereby
FINDS:

1. Given that the defense needs additional time to review records that are relevant to
the Court's sentencing determination;

2. Given that the defense recently received these records and would like additional
time to consult with an expert on state parole proceedings;

3. Given that the Government and Probation Office do not oppose this continuance;
and

4. Given that Mr. Fish has pleaded guilty and that the Speedy Trial Act does not
apply;

Based on these findings, IT IS HEREBY ORDERED that the sentencing hearing date of
January 10, 2013, scheduled at 2:00 p.m., is vacated and reset for February 28, 2013, at 2:00
p.m.

DATED: January 7, 2013


YVONNE GONZALEZ ROGERS
United States District Judge